

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JAMES ROBERT TICE)	
)	
Petitioner)	
v.)	C.A. No. 03-9 Erie
)	
HARRY E. WILSON,)	
)	
Respondent.)	

**MOTION FOR ORDER DIRECTING UNITED STATES MARSHAL TO
PAY WITNESS FEES, INCLUDING TRANSPORTATION EXPENSES, FOR
PETITIONER'S WITNESS KAREN JAWORSKI**

AND NOW, comes the petitioner, James Robert Tice, by his attorney, Assistant Federal Public Defender Thomas W. Patton, and pursuant to 28 U.S.C. § 1825(b), respectfully requests an Order directing the United States Marshal to arrange for Petitioner's witness Karen Jaworski's transportation from Bradenton, Florida to Erie, Pennsylvania to testify at the evidentiary hearing set for Wednesday, September 7, 2005 at 10:00 a.m. together with statutorily permitted funds for subsistence expenses to her destination. In support thereof counsel states:

1. United States Magistrate Judge Susan Paradise Baxter has set an evidentiary hearing in this case for Wednesday, September 7, 2005, at 10:00 a.m. so that Mr. Tice can present the testimony of his sisters Karen Jaworski and Judy Tice. (Docket entry 31)
2. Karen Jaworski lives in Bradenton, Florida, and will have to travel to Erie for the hearing via common carrier.
3. Title 28, U.S.C., §1825(b)(1) reads:

Payment of fees

In proceedings in forma pauperis for a writ of habeas corpus, and in proceedings in forma pauperis under section 2255 of this title, the United States marshal for the district shall pay, on the certificate of the district judge, all fees of witnesses for the party authorized to proceed in forma pauperis, except that any fees of witnesses for such party, other than experts, appearing pursuant to subpoenas issued upon approval of the court, shall be paid by the United States marshal for the district –

(1) on the certificate of a Federal public defender or assistant Federal public defender, in any such proceedings in which a party is represented by such Federal public defender or assistant Federal public defender.

4. On January 28, 2003, Magistrate Judge Baxter granted Mr. Tice's motion to proceed in forma pauperis in this habeas corpus proceeding, therefore, 28 U.S.C. § 1825 applies to this proceeding. The cost of a witness who must travel by common carrier to attend any hearing before a United States Magistrate is properly included in the witness' fee. 28 U.S.C. § 1821(c)(1). Accordingly, Mr. Tice requests that this Court order the Marshal's Service to arrange for, and pay the cost of travel for Karen Jaworski from Bradenton, Florida to Erie, Pennsylvania.

WHEREFORE, for the foregoing reasons, Mr. Tice respectfully requests that this Court issue an Order directing the United States marshal to arrange for Karen Jaworski's transportation from Bradenton, Florida to Erie, Pennsylvania.

Respectfully submitted,

/s/ Thomas W. Patton
Thomas W. Patton
Assistant Federal Public Defender
P.A. I.D. No. 88653